

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
950 Pennsylvania Avenue NW)	
Washington, DC 20530-0001,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. (“Plaintiff”) brings this action against the U.S. Department of Justice (“Defendant” or “DOJ”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to the Freedom of Information Act

(“FOIA”). Plaintiff analyzes the responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

4. Defendant is an agency of the United States Government. Defendant has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 950 Pennsylvania Avenue NW, Washington, DC 20530-0001.

STATEMENT OF FACTS

5. On September 27, 2019, Plaintiff submitted a FOIA request to the Executive Office for U.S. Attorneys, a component of Defendant, seeking access to the following records:

- 1. All records related to the attendance by Assistant US Attorneys Alana Robinson and Emily W. Allen (both of the US Attorney’s Office for the Southern District of California) at a Hillary Clinton presidential campaign fundraiser held in La Jolla, California on August 7, 2015, including but not limited to notes, memoranda, and authorizations.**
- 2. All emails and text messages sent to or from officials in the US Attorney’s Office for the Southern District of California regarding the attendance by Assistant US Attorneys Alana Robinson and Emily W. Allen at the August 7, 2015 Hillary Clinton presidential campaign fundraiser held in La Jolla, California, including but not limited to emails and text messages to the United States Secret Service which prompted a Secret Service official to send an email on August 5, 2015 with instructions for Mses. Robinson and Allen on where and when to arrive at the fundraiser to have their photograph taken with Mrs. Clinton.**
- 3. All internal emails and text messages between officials in the US Attorney’s Office for the Southern District of California regarding third party Freedom of Information Act requests for records relating to Mses. Robinson’s and Allen’s attendance at the August 7, 2015 fundraiser for Mrs. Clinton.**

4. **All emails between officials in the US Attorney's Office for the Southern District of California and other federal government officials regarding third party Freedom of Information Act requests for records relating to Mses. Robinson's and Allen's attendance at the August 7, 2015 fundraiser for Mrs. Clinton.**

The time frame for the requested records was June 1, 2015 to the present.

6. According to U.S. Postal Service records, Defendant received Plaintiff's FOIA request on October 7, 2019.

7. By email dated October 11, 2019, Defendant acknowledged receiving the request, albeit on October 10, 2019, and advised Plaintiff it had assigned the request Tracking No. EOUSA-2020-000091.

8. By letter dated October 15, 2019, Defendant invoked FOIA's "unusual circumstances" provision to extend the due date for its determination by an additional ten days, but also advised Plaintiff that it could avoid delays by modifying the scope of the request:

Requests that are specific, concrete and of limited scope (in time and/or subject matter) generally enable us to respond more quickly and possibly assess less fees. To avoid delay and reduce ay (sic) potential fees, we respectfully request that you modify the scope of your request (See attachment).

Attached to the letter was a form instructing the requester to choose one of four options, the first of which was "I wish to modify my request in an attempt to obtain a quicker response and/or reduce fees as follows"

9. That same day, October 15, 2019, Plaintiff selected the first option and completed, signed, and returned the form to Defendant. Specifically, Plaintiff agreed to modify the time frame of parts 1 and 2 of the request to "June 1, 2015 – Aug. 7, 2015." Plaintiff also agreed to modify the time frame of parts 3 and 4 of the request to "Aug. 1, 2018 to the present."

10. As of the date of this Complaint, Defendant has not: (i) produced the requested records or demonstrated that the requested records are lawfully exempt from production; (ii)

notified Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) informed Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.
12. Defendant is in violation of FOIA.
13. Plaintiff is being irreparably harmed by Defendant's FOIA violation, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.
14. Plaintiff has no adequate remedy at law.
15. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request within the time limits set by FOIA. Accordingly, Defendant's determination was due by November 25, 2019 at the latest.
16. Because Defendant failed to make a final determination on the request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: November 27, 2019

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

JUDICIAL WATCH, INC.

425 Third Street SW, Suite 800

Washington, DC 20024

Tel: (202) 646-5172

Email: porfanedes@judicialwatch.org

Counsel for Plaintiff